

Application No. 10/764,849 5 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

REMARKS

Amendment to the Claims

Claim 1 has been amended to recite that the absorbent article has fastening means and that the engaging means is adapted to engage with and hold portions of the absorbent article while the fastening means is used to fasten the absorbent article in place for wearing or is unfastened for the removal of the absorbent article, rather than that the engaging means is “engageable” with the absorbent article and “assists in the application or removal...when so engaged”, as previously worded. Support for the revised wording is found in the specification and drawings as originally filed, including in the original wording of Claims 13 and 19, on page 2 at lines 26-27, on page 3 at lines 3-4 and at line 7-8, on page 4 at lines 5-14, on page 11 from line 33 through page 12 at line 4, on page 22 at line 27 through page 24 at line 12, on page 25 at lines 4-16, and on page 27 at lines 20-34, and in Figures 1b, 2b, 3b, 4a, and 7a.

Claim 14 has been amended to recite that the external change aid is pre-engaged with the absorbent article, rather than simply “engaged”, as previously worded. Support for the revised wording is found in the specification on page 27 at lines 20-23. The term “pre-engaged” is thought to be more descriptive than the former “engaged”.

Claim Rejections - 35 USC § 102 – Kobayashi *et al.*

Claims 1 through 4, 6, 7, 11, 13, 14, and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.K. Patent Application Publication No. GB 2 298 627 A to Kobayashi *et al.*

Claims 1 through 4, 6, 7, and 11

To anticipate a claim, the reference must teach every element of the claim (MPEP 2131). Independent **Claim 1** has been amended in this Reply to recite that the absorbent article has fastening means and that the engaging means is adapted to engage with and hold portions of the absorbent article while the fastening means is used to fasten the absorbent article in place for wearing or is unfastened for the removal of the absorbent article.

In the Office Action, the “wrapping material” 20F of the Kobayashi *et al.* reference was alleged to be equivalent to the claimed changing mat. Also, the “irregular portions” 24F, along with their

Application No. 10/764,849 6 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

“small irregular portions” 25F, both being portions of the “peelable layer” 21F, which is in turn part of the wrapping material 20F, were alleged to be equivalent to the claimed engaging means.

Although it was not spelled out in the Office Action, the “peelable layer” 21 of the “wrapping material” 20 covers the “adhesive areas” 16 on the “sanitary napkin” 10E so long as the sanitary napkin is wrapped inside the wrapping material 20F. This arrangement is described and shown throughout the description and figures of the Kobayashi *et al.* reference, including on page 26 in the second full paragraph, where it is recited that “in the wrapping structure 1 for the sanitary napkin, the adhesive layers 16 are adhered onto the peelable layer 21, and therefore the adhesive layer 16 is protected by the peelable layer 21”, and on pages 38 through 41 in the description of the figures referenced in the Office Action.

However, because these adhesive areas 16 are used to attach the sanitary napkin 10E to the wearer’s undergarment, as is typical with catamenial products of this type, it is apparent that the adhesive areas 16 must become exposed in order for the sanitary napkin to be fastened in place for wearing. In fact, the wrapping material must be removed from around the sanitary napkin in order to expose the adhesive areas 16 in preparation for attaching the sanitary napkin to the wearer’s undergarment. See, for example, page 11, last 3 lines, page 12, last 5 lines of first full paragraph, page 31, second full paragraph, and the paragraph bridging from page 46 onto page 47, as well as the figures.

Therefore, unlike the engaging means of the claimed changing mat, the irregular portions 24F and their small irregular portions 25F cannot be engaged with the adhesive areas 16 while these adhesive areas are used to fasten the sanitary napkin in place for wearing, because such engagement would prevent the fastening of the sanitary napkin to the undergarment due to the fact that the wrapping material would be covering the adhesive areas. Moreover, lacking such engagement with the adhesive areas 16, the irregular portions 24F and 25F cannot hold any portion of the sanitary napkin while the fastening means is used to fasten the sanitary napkin in place for wearing. Thus, the elements identified in the Office Action are not structurally or functionally equivalent to the claimed elements with regard to the application.

Application No. 10/764,849 7 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

Similarly, because the adhesive areas 16 are covered by the wearer's undergarment while the sanitary napkin is being worn and become re-exposed only as a result of unfastening the sanitary napkin from the undergarment, *i.e.*, after the adhesive areas have been unfastened, the irregular portions 24F and their small irregular portions 25F cannot be engaged with the adhesive areas 16 while the adhesive areas 16 are unfastened for the removal of the sanitary napkin from the undergarment, again unlike the engaging means of the claimed changing mat. Moreover, lacking such engagement with the adhesive areas 16, the irregular portions 24F and 25F cannot hold any portion of the sanitary napkin while the fastening means is unfastened for the removal of the sanitary napkin. Thus, the elements identified in the Office Action are not structurally or functionally equivalent to the claimed elements with regard to the removal.

Thus, the Kobayashi *et al.* reference fails to disclose each and every element of independent **Claim 1** and therefore fails to anticipate this claim. **Claims 2** through **4**, **6**, **7**, and **11** depend from and therefore contain all the limitations of **Claim 1**. Therefore, the Kobayashi *et al.* reference likewise fails to anticipate any of these dependent claims.

Claims 13, 14, and 18

To anticipate a claim, the reference must teach every element of the claim (MPEP 2131). These rejections are hereby traversed on the ground that the cited reference fails to disclose all of the elements of the rejected claims.

Independent **Claim 13** recites “[a]n article of commerce comprising a package containing an external change aid comprising a changing mat”. Thus, the package and the external change aid contained by the package are two distinct structural elements, the latter comprising the changing mat.

It was stated in the Office Action that the cited Kobayashi *et al.* reference teaches “an article of commerce comprising a package (220) containing an external change aid comprising a changing mat (220)”. Thus, it was explicitly stated that the alleged equivalent of both the package and the changing mat is one and the same structural element, namely the wrapping material 220 that is wrapped around the sanitary napkin. A single structural element clearly is different from two

Application No. 10/764,849 8 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

distinct structural elements as in **Claim 13**. Furthermore, the quoted statement describes a physical impossibility, namely that the wrapping material 220 contains itself.

Thus, the Kobayashi *et al.* reference fails to disclose each and every element of independent **Claim 13** and therefore fails to anticipate this claim. **Claims 14** and **18** depend from and therefore contain all the limitations of **Claim 13**. Therefore, the Kobayashi *et al.* reference likewise fails to anticipate either of these dependent claims.

Summary with regard to claim rejections over Kobayashi *et al.*

The cited Kobayashi *et al.* reference fails to teach every element of independent **Claim 1** or any of the claims that depend from it. The cited Kobayashi *et al.* reference also fails to teach every element of independent **Claim 13** or any of the claims that depend from it. Therefore, the cited Kobayashi *et al.* reference fails to anticipate any of the rejected claims.

Accordingly, it is requested that the rejections of **Claims 1** through **4**, **6**, **7**, **11**, **13**, **14**, and **18** under 35 U.S.C. § 102(b) as being anticipated by U.K. Patent Application Publication No. GB 2 298 627 A to Kobayashi *et al.* be reconsidered and withdrawn.

Claim Rejections - 35 USC § 102 – Balzar *et al.*

Claims 1, **9**, and **10** were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,036,679 to Balzar *et al.*

Claims 1, 9, and 10

To anticipate a claim, the reference must teach every element of the claim (MPEP 2131). Independent **Claim 1** has been amended in this Reply to recite that the absorbent article has fastening means and that the engaging means is adapted to engage with and hold portions of the absorbent article while the fastening means is used to fasten the absorbent article in place for wearing or is unfastened for the removal of the absorbent article.

In the Office Action, the “wrapper” 30 of the Balzar *et al.* reference was alleged to be equivalent to the claimed changing mat. Also, the “garment attachment adhesive” 24, which is formed in

Application No. 10/764,849 9 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

“two spaced apart strips 25 and 26”, was alleged to be equivalent to the claimed engaging means. This allegation of equivalence is fundamentally incorrect because the garment attachment adhesive 24 is comprised by the absorbent article 10 of the cited Balzar *et al.* reference, in contrast to the claimed engaging means, which is comprised by the changing mat and is adapted to engage with a portion of the absorbent article. In other words, the garment attachment adhesive 24 of the cited Balzar *et al.* reference is a part of the absorbent article 10, rather than being a part of the wrapper 30 that was alleged to be equivalent to the claimed changing mat. Thus, the garment attachment adhesive 24 cannot be equivalent to the claimed engaging means.

Additionally, as can be seen in Figure 2, which was reproduced in the Office Action, the “release strip” 28 of the wrapper 30 covers the strips 25 and 26 of the garment attachment adhesive 24 so long as the sanitary napkin 10 is wrapped inside the wrapper 30. This arrangement is described and shown throughout the description and figures of the Balzar *et al.* reference, including in the Abstract, where it is recited that a “release strip is removably secured to the garment attachment adhesive to prevent premature contamination of the garment attachment adhesive before the absorbent article is secured to an undergarment”, in the sentence bridging from column 1 into column 2, in the paragraph beginning in column 4 at line 4, and in the figures.

However, because the garment attachment adhesive 24 is used to attach the sanitary napkin 10 to the wearer's undergarment, as is typical with catamenial products of this type, it is apparent that the garment attachment adhesive 24 must become exposed in order for the sanitary napkin to be fastened in place for wearing. In fact, the wrapper 30 and the release strip 28 must be removed from around the sanitary napkin in order to expose the garment attachment adhesive 24 in preparation for attaching the sanitary napkin to the wearer's undergarment, as is explicitly disclosed in column 4 at lines 11 through 15 and in column 10 at lines 47 through 50.

Therefore, even if the fundamentally incorrect equation of the garment attachment adhesive 24 with the claimed engaging means were overlooked and some portion of the wrapper 30 of the Balzar *et al.* reference were proposed as the structural equivalent of the claimed engaging means, unlike the engaging means of the claimed changing mat, the wrapper 30 cannot be engaged with the garment attachment adhesive 24 while this garment attachment adhesive is used to fasten the

Application No. 10/764,849 10 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

sanitary napkin in place for wearing, because such engagement would prevent the fastening of the sanitary napkin to the undergarment due to the fact that the wrapper would be covering the garment attachment adhesive. Moreover, lacking such engagement with the garment attachment adhesive 24, the wrapper 30 cannot hold any portion of the sanitary napkin while the fastening means is used to fasten the sanitary napkin in place for wearing. Thus, the elements identified in the Office Action are not structurally or functionally equivalent to the claimed elements with regard to the application.

Similarly, because the garment attachment adhesive 24 is covered by the wearer's undergarment while the sanitary napkin is being worn and become re-exposed only as a result of unfastening the sanitary napkin from the undergarment, *i.e.*, after the garment attachment adhesive has been unfastened, the wrapper 30 cannot be engaged with the garment attachment adhesive 24 while the garment attachment adhesive is unfastened for the removal of the sanitary napkin from the undergarment, again unlike the engaging means of the claimed changing mat. Moreover, lacking such engagement with the garment attachment adhesive 24, the wrapper 30 cannot hold any portion of the sanitary napkin while the fastening means is unfastened for the removal of the sanitary napkin. Thus, the elements identified in the Office Action are not structurally or functionally equivalent to the claimed elements with regard to the removal.

Thus, the Balzar *et al.* reference fails to disclose each and every element of independent **Claim 1** and therefore fails to anticipate this claim. **Claims 9 and 10** depend from and therefore contain all the limitations of **Claim 1**. Therefore, the Balzar *et al.* reference likewise fails to anticipate either of these dependent claims.

Claim 10

In addition, the rejection of **Claim 10** is hereby traversed on the ground that the cited reference fails to disclose all of the elements of this claim.

To anticipate a claim, the reference must teach every element of the claim (MPEP 2131). **Claim 10** recites that the external change aid comprises at least two parts that are connectable. Thus,

Application No. 10/764,849 11 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

the two parts are two distinct structural elements that can be connected together to form the external change aid.

In the Office Action, the elements 36 and 38 of the Balzar *et al.* reference were alleged to be equivalent to the claimed two parts and it was stated that "either...can be folded around the absorbent article (10) to be connected" by the "attachment device" 50. This allegation of equivalence is fundamentally incorrect because the elements 36 and 38 are merely two edges of the same element, namely the wrapper 30.

In addition, the elements 36 and 38 of the Balzar *et al.* reference were misidentified in the Office Action as "opposite ends" of the wrapper 30, which was alleged to be equivalent to the claimed changing mat. In reality, the elements 36 and 38 are explicitly identified in column 4 at lines 30 and 31 as the "first side" 36 of the wrapper 30 and the "second side" 38 of the wrapper 30. As can clearly be seen in Figure 1, these "sides" are the side edges of the wrapper 30, while the ends of the wrapper are identified by the reference numerals 32 and 34, as explicitly disclosed in the same lines in column 4. The nature of the sides 36 and 38 as being the side edges of the wrapper 30 is also evident in Figure 2, which is explicitly disclosed in column 2 at lines 53 and 54 to be "a cross sectional view of the absorbent article and wrapper shown in FIG. 1 taken along line 2—2". Moreover, the wrapper 30 is explicitly disclosed to be folded such that the ends 32 and 34 of the wrapper 30 overlap, but such that the referenced sides 36 and 38 are not brought together. See column 5, lines 22 through 65, Figure 4, where the fold axes A--A and B--B are clearly identified and shown as extending parallel to the second end 34, and Figures 5 through 15, in every one of which the second end 34 is clearly identified and shown. Thus, the wrapper 30 is never folded as proposed in the Office Action and the sides 36 and 38 are never brought together as would be necessary for them to be connected together as proposed in the Office Action.

Thus, the Balzar *et al.* reference fails to disclose each and every element of **Claim 10** and therefore fails to anticipate this claim.

Application No. 10/764,849 12 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

Summary with regard to claim rejections over Balzar *et al.*

The cited Balzar *et al.* reference fails to teach every element of independent **Claim 1** or any of the claims that depend from it. In addition, the cited Balzar *et al.* reference fails to teach every element of **Claim 10** standing on its own. Therefore, the cited Balzar *et al.* reference fails to anticipate any of the rejected claims.

Accordingly, it is requested that the rejections of **Claims 1, 9, and 10** under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,036,679 to Balzar *et al.* be reconsidered and withdrawn.

Claim Rejection - 35 USC § 103 - Kobayashi *et al.*

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.K. Patent Application Publication No. GB 2 298 627 A to Kobayashi *et al.*

According to MPEP 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

As discussed above, the Kobayashi *et al.* reference fails to teach or suggest all of the limitations of independent **Claim 1**, from which **Claim 5** depends and all of whose limitations **Claim 5** thereby contains. No modification of the teachings of the Kobayashi *et al.* reference was proposed in the Office Action and there is no suggestion or motivation provided in the reference itself to modify its teachings or to combine them with those of another reference. Thus, the requirements of MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to **Claim 5**.

Application No. 10/764,849 13 of 13
Reply dated 26 April 2005
Responsive to Office Action mailed 26 January 2005

Accordingly, it is requested that the rejection of **Claim 5** under 35 U.S.C. § 103(a) as being unpatentable over U.K. Patent Application Publication No. GB 2 298 627 A to Kobayashi *et al.* be reconsidered and withdrawn.

Allowable Subject Matter

The statements of allowable subject matter are appreciated. Because it is believed that all of the pending claims are allowable as listed in this Reply, the claims that were stated to be allowable if rewritten in independent form have not been so rewritten.

Respectfully submitted,

By: Michael P. Hayden

Michael P. Hayden

Registration No. 48,433

Phone: (513) 634-5801

Fax: (513) 945-2958 or (513) 634-3007

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Customer No. 27752